

whether or not that should be an amendment.

CHAIRPERSON HARRIS: It should be an amendment.

SECRETARY COOPER: Or whether or not this is, in fact, our old section.

DELEGATE SIMMONS: I will accept the ruling of the Chair. If it must be an amendment, I will so move.

CHAIRPERSON HARRIS: Okay, is there a second for the amendment?

DELEGATE KAMENY: Second.

[Motion made and seconded.]

CHAIRPERSON HARRIS: It has been moved by Delegate Simmons that section 10 read "Appointments subject to the advice and consent of the legislature require a majority vote." Period. Delegate Talmadge Moore.

DELEGATE TALMADGE MOORE: I would like to know what appointments you are referring to. I do not know whether this paragraph is redundant or does not give much validity or what. I do not know who you are referring to.

DELEGATE SIMMONS: Delegate Moore, you have been here and you will recall that there were various junctures where the Governor had powers to make various appointments with the advice and consent of the legislature and advice and consent, it was direction and advice of our counsel that we

define it -- we must spell that out some place in the documents.

We had considered the deletion of this section as a committee because we thought it was -- you know, advice and consent is understood. It was not in the judgment of our legal counsel that you leave that out. That definition has to be in there some place and rather than to engage in more than a definition, we have deleted that which simply define and add something.

CHAIRPERSON HARRIS: Delegate Schrag.

DELEGATE SCHRAG: I support the committee's amendment; this amendment makes the section much more traditional. It is the standard procedure to require the permanent vote of the legislature rather than a negative one for appointment and it also will prevent a small minority in the legislature from using dilatory tactics to ensure the appointment of a gubernatorial candidate.

This is the standard procedure for confirming appointments and I support the committee's proposal.

CHAIRPERSON HARRIS: Delegate Love.

DELEGATE LOVE: Yes, I have a question. It is going to read "A majority vote" period?

CHAIRPERSON HARRIS: Yes, "By a majority vote", period.

DELEGATE LOVE: I think that is confusing and if they want a majority vote of those present and voting, I think they should say "A majority vote of those present and voting." I think this may be a little unclear. I think maybe Style and Drafting would add some consistency afterwards but I think we would be better off saying "present and voting" just so it is clear what kind of a majority vote we are talking about.

DELEGATE CORN: May I speak to that now?

VOICE: I didn't hear that.

CHAIRPERSON HARRIS: He is suggesting that it says, "Require a majority vote of those present and voting."

DELEGATE CORN: Does he mean of those present and voting or of all legislators?

CHAIRPERSON HARRIS: Can you clarify that?

DELEGATE SIMMONS: The majority vote we had -- our intent was that it be a majority of the legislature, those persons elected.

DELEGATE LOVE: Yes. Well, it should say what kind of a majority vote, either those present and voting or all the members, but it should say one or the other, otherwise, it is going to be --

DELEGATE SIMMONS: Well, in the absence of saying "present and sitting, the majority vote of the legislature,"

the legislature has a finite number so when you say "a majority of the legislature," you are saying a finite number. It is not ambiguous at all. Every legislature is defined, you know, 32 or 424 members.

DELEGATE KAMENY: A majority vote is a majority vote.

DELEGATE SIMMONS: When you say, "Of the legislature, you know what the legislature is, the legislature is a body that has a different number of members.

DELEGATE LOVE: Then you should add, "A majority vote of all members" so it is very clear.

DELEGATE CORN: May I make a suggestion?

DELEGATE SIMMONS: You do not feel that consent of the legislature -- that that is definitive enough?

DELEGATE LOVE: No.

DELEGATE KAMENY: I think there are plenty who would interpret it exactly the opposite from you if you ask them.

DELEGATE SIMMONS: Well, we could say "sitting and present" if we do not mean the majority of legislators.

DELEGATE LOVE: No, you should say what you mean. You can say "present and voting" or you can say "of all the members," either one. But you should say one or the other so it is clear.

CHAIRPERSON HARRIS: Okay, Delegate Simmons,

Delegate Cooper wants to offer something here.

DELEGATE COOPER: I want to offer a friendly amendment if you want to accept it and that is, if you do mean of those serving in the legislature, why not just let the entire first sentence stand all the way down to the period after "disapproval" because it is so stated and then it won't be --

DELEGATE CORN: Madam Chair. Madam Chair.

DELEGATE COOPER: Otherwise, if you are going to change it, you are changing the entire report, the meaning of the report that was proposed from the committee.

DELEGATE SIMMONS: Okay, so you are saying that the first sentence remains as is?

DELEGATE COOPER: Yes.

[There is a second.]

CHAIRPERSON HARRIS: It has been seconded that Delegate Cooper's amendment be -- that the sentence read, "Appointment subject to the advice and consent of the legislature requires a majority vote of those elected and serving in the legislature"period.

Okay, that has been properly seconded. Discussion.

Delegate Corn.

DELEGATE CORN: I would like to say that this could be very simply cleared up by a stylistic maneuver. May I

offer a friendly amendment for the purposes of style?

"Appointments are subject to advice and consent by majority vote of all legislators." "By majority vote of all legislators."

VOICE: Legislature or legislators.

CHAIRPERSON HARRIS: Repeat that.

DELEGATE CORN: [Repeats.]

CHAIRPERSON HARRIS: Is there a second? That is a substitute.

[Delegates Corn and Kaveny, side argument about English, legislature vs. legislators.]

CHAIRPERSON HARRIS: Delegate Corn, your substitute is out of order. We have two amendments to the main motion already on the floor.

DELEGATE CORN: I know but this is a friendly amendment to the committee and the committee chair. I don't know whether they even heard me.

CHAIRPERSON HARRIS: You are beyond the third tier so you are out of order beyond this point. We are back to the Cooper Amendment.

DELEGATE CORN: I would like to point out one thing, then. This is not a sentence. There is no verb.

CHAIRPERSON HARRIS: Back to Delegate Cooper's

amendment, which has been seconded. And I shall read again for your consideration. Section 10, lines 9-13, says "Appointments are subject to the advice and consent of --"

SEVERAL VOICES: No, no "are."

CHAIRPERSON HARRIS: "Appointments subject to the advice and consent of the legislature require a majority vote of those elected and serving in the legislature."

All of those in favor of that amendment please say yeah.

[There is a chorus of yeahs.]

All those opposed. Abstentions.

[Amendment passes.]

The ayes have it.

DELEGATE CORN: Madam Chair, Madam Chair.

CHAIRPERSON HARRIS: The ayes have it for section 10. All right, you would delete line 10 after "legislature" down to the end. Delegate Maguire.

DELEGATE MAGUIRE: There is a further amendment by -- which I am speaking for the committee -- to section 10 which now reads "appointments subject to the advice and consent of the legislature now require a majority vote --"

MANY VOICES: Read it slower. Can't understand you.

DELEGATE CORN: Would you read it slower so we

can understand it?

DELEGATE MAGUIRE: That's what we just voted on.

DELEGATE CORN: Style and Drafting needs to know what it is so we can --

CHAIRPERSON HARRIS: It is the same as was just voted on. Please read it slower.

DELEGATE MAGUIRE: The committee would like it to read now, in its entirety, section 10, "Appointments subject to the advice and consent of the legislature require a majority vote of those elected and serving in the legislature" period.

New sentence, "Appointments not finally acted upon within 60 session days stand confirmed" period.

CHAIRPERSON HARRIS: Please read the second sentence again.

DELEGATE MAGUIRE: [Rereads as above.]

CHAIRPERSON HARRIS: Is there a second?

VOICE: I guess it would be better. Yes.

[Motion made and seconded.]

CHAIRPERSON HARRIS: It has been moved and properly seconded that -- will this sentence replace the ones that we deleted? Or is it another paragraph?

DELEGATE MAGUIRE: Do you want me to read the entire section again?

CHAIRPERSON HARRIS: No, I am asking a question.

SEVERAL VOICES: Yes.

CHAIRPERSON HARRIS: Will that replace the sentence?

VOICE: Yes.

CHAIRPERSON HARRIS: All right, the extension of what was voted on would state, "Appointments not finally acted upon within 60 session days stand confirmed."

Discussion on the amendment. Delegate Jackson.

DELEGATE JACKSON: Did you say if they are not acted upon within 60 days they are confirmed? Is that what it says?

DELEGATE MAGUIRE: Yes.

CHAIRPERSON HARRIS: Sixty session days.

DELEGATE JACKSON: Might I ask what the difference is? This is the question. What is the difference in this than a piece of legislation that is not acted upon in 60 days and which doesn't become law? It seems like to me --

DELEGATE CORN: The difference --

DELEGATE JACKSON: I know there is some point to it but I don't see why we separate them and make one different from the other. I mean if they are both the same I don't see why separate them and make one one way and the other the other way. I would appreciate if someone would answer my question.

I mean, I understand one reason why was so a minority

couldn't make a filibuster but what difference does it make?

DELEGATE SIMMONS: I think it would be a very crippling process for a new administration for the legislature simply not to confirm the appointments so that those boards and heads of departments are absolutely frozen.

With regard to the legislation, that is the legislature that has rules of its own with the discipline of its own members that can move that. The Governor is not in the legislature and therefore, cannot engage in any discipline or control over those legislators.

I think it is that difference. They are not the same.

CHAIRPERSON HARRIS: Delegate Kameny.

DELEGATE KAMENY: I would like^{you} to state first for the record, lest posterity litigate this point endlessly because we are not clear on it, exactly what is meant with precision by a "session day." Because you have the phrase "60 session days." What do you mean by a session day?

DELEGATE MAGUIRE: When the legislature is in session.

DELEGATE KAMENY: Then say it so the record gets it so posterity 100 years from now knows what you meant.

CHAIRPERSON HARRIS: Your point is well-taken,

Delegate Kameny.

DELEGATE KAMENY: That is my first point.

DELEGATE MAGUIRE: Can I have help from our legal counsel on this?

CHAIRPERSON HARRIS: What is your second point, Delegate Kameny?

DELEGATE KAMENY: No, we define it, the legal counsel does not. The phrase means what we say it means. But we have to say it. We have the final authority --

DELEGATE MAGUIRE: Within 60 --

DELEGATE CORN: Within 60 legislative session days.

DELEGATE KAMENY: -- but we have to authorize it.

CHAIRPERSON HARRIS: All right, Delegate Kameny, on to your next point.

DELEGATE MAGUIRE: The Constitution needs to define what legislative days are.

DELEGATE KAMENY: It already does.

DELEGATE MAGUIRE: Legislative --

CHAIRPERSON HARRIS: [Rapping gavel] What is your second point, Delegate Kameny? I think that is clear.

DELEGATE KAMENY: My next point is --

[Several side discussions about legislative days.]

CHAIRPERSON HARRIS: I think that is quite clear.

Move right along.

DELEGATE KAMENY: Well, it is up to them to define what legislative session days are. And we have to agree on it.

DELEGATE MAGUIRE: So it should read "Appointments not finally acted upon within 60 days of the legislature in session." Is that what you want?

DELEGATE KAMENY: I was not saying necessarily this language has to be changed, but we have to define --

DELEGATE MAGUIRE: Well, then leave it as it is then.

DELEGATE KAMENY: -- it so that people later on can refer to it, the definition of what is being meant by --

DELEGATE MAGUIRE: Okay, the language --

CHAIRPERSON HARRIS: Okay, is it clear now?

DELEGATE MAGUIRE: -- remains the same and what we mean is 60 days while the legislature is in session. Okay? The language is going to remain the same. Fine.

DELEGATE KAMENY: All right, now --

DELEGATE CORN: Point of information, Madam Chair.

DELEGATE KAMENY: Wait a minute, please. Now, what you are talking about is 60 days while the legislature is in session.

DELEGATE MAGUIRE: Correct.

DELEGATE KAMENY: When the legislature is not in

session on a Sunday or a Saturday or a Monday, do you take that into account or not?

CHAIRPERSON HARRIS: No. No, it would not, only the days while it is in session.

DELEGATE KAMENY: Right. Next --

DELEGATE MAGUIRE: This has got to be very important for history.

DELEGATE KAMENY: Next, what happens if the legislature -- now, I have not seen the Legislative Committee's reports on this but if the legislature is not continuous all the time, and is out of session for an extended period of time and 60 session days have not elapsed, does this appointment then remain in limbo for --

DELEGATE CORN: Yes.

DELEGATE KAMENY: -- six or eight or nine months until the legislature comes back into session?

DELEGATE CORN: Yes. The way this is written, yes. The way this is written --

CHAIRPERSON HARRIS: Delegate Corn, the question is addressed to the committee.

DELEGATE KAMENY: Yes, I think it is awfully important to clear that up.

DELEGATE MAGUIRE: I think -- I mean, it would be

my interpretation of this that appointments would stand confirmed unless not disapproved by the legislature.

DELEGATE KAMENY: That is a separate --

CHAIRPERSON HARRIS: That is not a part of the motion.

DELEGATE MAGUIRE: I am trying to explain it.

DELEGATE KAMENY: It does not read that way. We are talking in terms of time and it is awfully important to have this language understood.

CHAIRPERSON HARRIS: Okay, what is the question now, please may I ask?

DELEGATE KAMENY: Suppose the legislature goes out of session. It reaches the end of its session and goes out of session for, let's say, seven months. I don't know what the period would be but it reaches, let's say, the end of its session and goes out of session for, let's say, seven months.

I do not know what the Legislative Committee purportedly would say. But it goes only 35 session days -- only 35 session days have elapsed when the legislature goes out of session. Does it mean this appointment hangs in limbo until the legislature comes back into session nine months hence?

DELEGATE MAGUIRE: No.

CHAIRPERSON HARRIS: Yes, it does. That is clear.

DELEGATE CORN: Yes, yes it does.

DELEGATE KAMENY: Yes it does unless the --

CHAIRPERSON HARRIS: Sure, it does.

DELEGATE MAGUIRE: Are you answering for the
committee?

CHAIRPERSON HARRIS: I can interpret.

DELEGATE KAMENY: What is wrong with you?

SEVERAL VOICES: Madam Chair --

CHAIRPERSON HARRIS: Maybe the committee needs to
give you some discussion on that.

VOICE: Sixty calendar days.

CHAIRPERSON HARRIS: But no, I think the question
is, that is clear -- the question from Delegate -- [rapping
gavel] -- the question from Delegate Kameny is, if the legis-
lature is only in session for 35 days, then does it mean that
this cannot be acted upon?

DELEGATE KAMENY: No, if it then goes out of session
for the rest of the year, does this hang in limbo?

CHAIRPERSON HARRIS: Yes, it does.

DELEGATE CORN: It does.

DELEGATE KAMENY: Well, that, I think, is disastrous.

CHAIRPERSON HARRIS: Delegate Barnes: I have a
question of the maker of the motion. Is there any difference

between the substitute amendment and the original text as it appears in our documents? If there is not, I would like to ask the maker of the motion to withdraw it and debate the main motion.

DELEGATE MAGUIRE: The main motion that was put to the floor by Chairman Simmons was just the first sentence of the -- of section ten. She had moved to delete everything else. That is why an additional amendment was made.

DELEGATE BARNES: Okay, thank you.

CHAIRPERSON HARRIS: Delegate Cooper.

SECRETARY COOPER: I have a question. I would like to know, it seems that, you know, there is a follow-up on Delegate Barnes' question. Since there obviously is, I can't see any difference between the amendment set before us and the language of the second sentence that was stricken from section 10. There is absolutely no difference.

DELEGATE MAGUIRE: It is not. It is just more concise.

DELEGATE SIMMONS: We believe it is more stylistic.

DELEGATE MAGUIRE: Right. There is no section 10.

SECRETARY COOPER: Right. But if it is not substantively different and we struck it previously, then that would be reconsideration of that.

DELEGATE MAGUIRE: That is why it was reworded.

SECRETARY COOPER: But rewording is stylistic. The reconsideration is due to substance, you see, and if it is substantively the same as what was stricken, then --

DELEGATE MAGUIRE: Madam Chair, I withdraw my motion.

CHAIRPERSON HARRIS: Thank you. I think Delegate Cooper has made a very good point here.

DELEGATE SHELTON: What was the point?

CHAIRPERSON HARRIS: The point is that the amendment made by Delegate Maguire is in substance the same as the sentence we deleted in section 10. Okay, Delegate Simmons, do we move to adopt section 10 now? Will you move to adopt section 10? Are there any further amendments to section 10?

DELEGATE SIMMONS: I move we adopt section 10 as amended.

CHAIRPERSON HARRIS: Is there any second that we adopt section 10 as amended?

[Motion made and there is a second.]

CHAIRPERSON HARRIS: All in favor, please say aye.

[There is a loud chorus of ayes.]

All opposed? [One opposed.] Abstention?

So carried. We move to section 11, vacancies.

DELEGATE SIMMONS: I would like to call your attention --

CHAIRPERSON HARRIS: Delegate Simmons, I would like to alter this a little bit -- please [rapping gavel] -- please follow me. In order for us to finish this report tonight, I would like to alter the style in which the minority report has been presented and I think our rules allow for that.

Since we all received the minority report in our boxes, we have read it, I think, with interest and I think that we do not need to hear it again and what we shall do is read it where we are sitting and then discuss it before we deal with the committee's report, vote it and move on to the committee's report. And that is in order, I think.

DELEGATE SIMMONS: The subsection -- in subsection B, I would like for you to note that on line 21, office of representative in Congress, representative-elect on line 22 must be stricken because there is no constitutional prerogative ever allowed to appoint a Congressperson in spite of the vacancy. It is only a Senator. You know, that is the reason for that.

CHAIRPERSON HARRIS: Did you follow that? Did you follow Delegate Simmons on line 22 to strike --

DELEGATE SIMMONS: Lines 21 and 22.

CHAIRPERSON HARRIS: -- and the comma --

DELEGATE SIMMONS: Right, representative in Congress and representative-elect. Those words are to be stricken.

And my reason for striking those is that the Federal Constitution does not allow Congressional vacancies to be filled. No person can sit in the United States Congress who has not been elected by the people.

The Senate does accept interim appointments for filling vacancies and I just want our Constitution, of course, to be compatible and in harmony with the Federal Constitution.

Madam President, I move the adoption of Section 11 Vacancies A.

[Motion made. There is a second.]

CHAIRPERSON HARRIS: It has been moved and seconded that we adopt Section 11, Vacancies A. Delegates Cooper, Schrag and Kameny.

DELEGATE CORN: Madam Chair, a point of order, my minority report. It is always allowed to speak first.

CHAIRPERSON HARRIS: If you will have a seat, we will deal with the minority report. Right now I am recognizing you do not have to come up front.

DELEGATE CORN: I am not coming up front.

CHAIRPERSON HARRIS: Delegate Cooper.

SECRETARY COOPER: May I inquire of Delegate Simmons through the Chair that -- because the Constitution of the United States is silent on the point of the Office of

Representatives of the Congress in the case of a vacancy, could we not assume then that because of that National Constitution, that that -- if that prerogative is there, could it then be delineated to the state?

DELEGATE SIMMONS: I inquired about this and I was told that the Senate does allow appointments but that the House, by its own rules, will not admit anyone who is appointed.

SECRETARY COOPER: Its own rules.

DELEGATE SIMMONS: Its own rules.

SECRETARY COOPER: With total disregard to the National Constitution.

DELEGATE SIMMONS: Well, it was a prerogative that was assumed by the Congress itself rather than by the states.

CHAIRPERSON HARRIS: Okay. Delegate Schrag, do you have a question?

DELEGATE SCHRAG: I would like to suggest the insertion of the word "resignation"[overridden] page.. line 16 ...would you accept the word "resignation?"

DELEGATE SIMMONS: Yes.

CHAIRPERSON HARRIS: Delegate Schrag has suggested on line 16 of the vacancies, after "death," put in "resignation."

Delegate Kameny, do you have a question?

DELEGATE KAMENY: I would like to suggest stylistically we use the word "interim" on line 19. And you might also

want to use "interim" on line 15 instead of "provision." I think it is in general a more conventional term.

CHAIRPERSON HARRIS: Restate that, please.

DELEGATE KAMENY: "The Governor may make an interim appointment" on the first line of this section A. And the same usage at the end of the section so it makes it consistent.

DELEGATE CORN: Do you mean an interim provisional appointment?

DELEGATE KAMENY: No.

CHAIRPERSON HARRIS: Okay, Delegate Simmons has moved section 11 A. Will you please read the minority report, page 5 of 6, line, 11, 12, 13, 15 vacancies?

DELEGATE CORN: I would like --

CHAIRPERSON HARRIS: You do not have to come up here.

DELEGATE CORN: I would like to move it, please. I am allowed to make a motion to move it.

CHAIRPERSON HARRIS: Move it.

DELEGATE CORN: I move the following changes. In Section 11 A, line two, I would take out the words "or elected" and then in section B, to conform with that, starting in line 23, after "elect," I would delete everything there from and add "in the event of a vacancy in the office of state

legislator, Representative in Congress, Representative-elect, office of United States Senator or Senator-elect, a new election shall be held sixty days hence to fall on the first Tuesday thereafter" and I would like to add, "or if a general election is coming or if a regular election is coming up, regular or special election is coming up within ninety days, it shall be held then, which shall be called a special election."

CHAIRPERSON HARRIS: Is there a second?

DELEGATE ROTHSCHILD: Second.

[Motion made and seconded.]

CHAIRPERSON HARRIS: It has been seconded by Delegate Rothschild and --

DELEGATE CORN: Now I would like to speak to my motion, please.

CHAIRPERSON HARRIS: -- this is an amendment to Section 11.

DELEGATE CORN: I'd like to speak to my motion now. The point of this is that often, as you have seen here in the City Council, when someone is appointed on an interim basis or provisional basis until there is an election, that person becomes an incumbent and has a tremendous advantage over the others who might be running for that office.

Once again, the Governor then would have the power

not only to appoint all the Boards and Commissions and the judges and everything else, now he is even filling the legislature. I would oppose this very strenuously and therefore, I would state that a special election must be in order so that the person sitting in the seat has not got the undue advantage of incumbency by virtue of befriending the Mayor.

CHAIRPERSON HARRIS: Okay, thank you.

DELEGATE SIMMONS: Point of order. A) what is being discussed now is under B. We are doing --

DELEGATE CORN: No, I am doing -- excuse me. I have done these together since they work together.

CHAIRPERSON HARRIS: Okay, is there any other discussion on the motion?

Is there any discussion on the motion?

Would the second like to discuss the motion?

DELEGATE GRAHAM: I move the question.

CHAIRPERSON HARRIS: The previous question has been moved. All in favor of the minority report A, please -- I'm sorry --

DELEGATE CORN: A and B.

VOICE: You can't move both.

DELEGATE CORN: But they were together.

CHAIRPERSON HARRIS: All in favor of A and B of

the minority report, Section 11, please say aye.

[Delegate Corn votes aye.]

All opposed.

[Loud chorus of nays.]

Abstentions? [No abstentions.] [Amendment fails.]

Okay, the amendment fails. That is the end of the minority report. Thank you, Ms. Corn.

Let's go back to Delegate Simmons --

Yes, Delegate Lockridge.

DELEGATE LOCKRIDGE: As we all know, the elevator --

CHAIRPERSON HARRIS: Delegates, this is very important [rapping gavel.]

DELEGATE LOCKRIDGE: The elevator stops running at 10:30 and we would like to finish this report.

DELEGATE SIMMONS: We have got one page.

DELEGATE LOCKRIDGE: And the young lady just peeked in the door. She has consented to remain but not after 11:00. But not beyond that time, so that we might finish with this expeditiously. Might I ask you to look in your pockets, please and take out a little change. The Reverend will pass the hat.

CHAIRPERSON HARRIS: Okay, while that is going on, Delegate Simmons, will you please move --

DELEGATE SIMMONS: Yes, I would like to move --

the question was called and we have acted. I would like to move approval of Section 11, subsection vacancies A.

[Motion made and seconded.]

CHAIRPERSON HARRIS: Okay, it has been properly moved and seconded, Subsection A on the Vacancies. All in favor --

DELEGATE KAMENY: Can I ask a question or is it too late?

DELEGATE SIMMONS: You can ask a question but let's

CHAIRPERSON HARRIS: We are in the middle of a vote. Is it crucial?

DELEGATE SIMMONS: Is it profound?

DELEGATE KAMENY: Well, it is substantive, yes.

CHAIRPERSON HARRIS: Okay.

DELEGATE KAMENY: Have I been recognized? I don't want to be disruptive.

CHAIRPERSON HARRIS and DELEGATE SIMMONS: Yes.

DELEGATE KAMENY: Where you refer to the removal -- where you refer to the Governor making appointments and the removal of an appointed or an elected official other than a legislative or judicial officer.

First, there is only one such elected official that I know of and that is the Secretary of State and secondly,

what happens when an elected judicial or legislative official does go by death, resignation or whatever, how is that person replaced?

CHAIRPERSON HARRIS: [Rapping gavel] Delegate Simmons.

DELEGATE SIMMONS: When you are talking about providing for the vacancy of a federal elected person --

DELEGATE KAMENY: A state elected person in the judicial or legislative category -- there is no provision at all

DELEGATE SIMMONS: Not from the executive but the legislature has provided for those vacancies.

CHAIRPERSON HARRIS: All right, all in favor of the motion, please signify by saying aye.

[Carried unanimously.]

Do carried. Subsection B, Delegate Simmons.

DELEGATE SIMMONS: With the deletions that I earlier enumerated under B, I move the approval of subsection B, section 11, vacancies. I so move, Madam President.

[Moved and seconded.]

CHAIRPERSON HARRIS: It has been moved and duly seconded. All in favor of Subsection B, let it be known by saying aye.

[All in favor except Delegate Corn.]

So carried. Delegate Simmons.

DELEGATE SIMMONS: Now I would like to move for the adoption of the Section 11 on vacancies, A and B in toto. I so move.

[Moved and seconded.]

CHAIRPERSON HARRIS: All in favor, signify by saying aye.

[Chorus of ayes.]

Opposed.

[Delegate Corn is opposed.] [Motion carries.]

So carried.

DELEGATE SIMMONS: Section 12, Compensation. The Governor -- Strike Lieutenant-Governor -- Secretary of State and Attorney-General -- I'm sorry, strike Attorney-General, too. Attorney-General and Lieutenant-Governor do not exist as a result of our earlier actions.

So Section 12 says, "The Governor and the Secretary of State shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during their terms of office. Such compensation shall not be changed during the term of office."

Madam President, I move the adoption of Compensation Section 12 as amended.

[Motion made and seconded.]

CHAIRPERSON HARRIS: It has been moved and properly seconded that Section 12 be approved.

Delegates Love and Kameny.

DELEGATE LOVE: It says compensation shall not be changed during term of office. It seems to me you should never change compensation because somebody would always be in office. Am I wrong?

DELEGATE JONES: Yes, you are wrong.

DELEGATE SIMMONS: The explanation is very simple, Delegate Love. It is that you are Governor and your term expires come such and such. The new compensation figure becomes operative which was determined while you were in office for the person who follows you.

CHAIRPERSON HARRIS: Delegate Kameny.

DELEGATE KAMENY: Suppose during a four-year term we end up, as we have in recent years, having 10 percent inflation a year and so that at the end of that time the salaries all these people are getting are down to about half of what they were. Is the legislature precluded from remedying that by a cost-of-living-type increase? That would seem to be the case here.

DELEGATE SIMMONS: No, we are silent -- we have not assumed prerogatives for the legislature. We have --

CHAIRPERSON HARRIS: [Rapping gavel] Please --

DELEGATE KAMENY: It's all right. But these people are saying the Governor will end up getting a salary which is about 6 percent the salary he or she was getting when elected simply because of inflation and with no remedy permitted.

DELEGATE SIMMONS: No, I do not believe that is what we are saying.

CHAIRPERSON HARRIS: Delegate Coates, are you speaking --

DELEGATE COATES: No, the salary is not to change. It is not to change up or down.

DELEGATE KAMENY: I am not talking about change. I am talking about the effect of inflation. I am inquiring --

CHAIRPERSON HARRIS: Are you making an amendment?

DELEGATE KAMENY: Yes, I would move that the word "change" be amended to -- [overridden].

DELEGATE SIMMONS: What was your amendment?

DELEGATE KAMENY: That the word "change" on line 5, I guess it is, shall be amended to read "diminished."

DELEGATE SIMMONS: "Shall not be diminished."

DELEGATE KAMENY: Yes.

DELEGATE SIMMONS: I second the amendment.

CHAIRPERSON HARRIS: [Rapping for order] Will you

restate the amendment?

DELEGATE SIMMONS: Delegate Kameny -- on line 5, where the word says "change," we are deleting it and replacing it with the word "diminished."

VOICE: With what?

DELEGATE SIMMONS: "Diminished," a one-word change.

CHAIRPERSON HARRIS: Okay, there have been two changes. Are there any other proposed changes? Delegate Rothschild.

DELEGATE ROTHSCHILD: Could I ask the maker why we should not say, "Shall not be diminished unless general salaries are reduced" or "there is a reduction in general salaries"?

MANY VOICES: No.

DELEGATE ROTHSCHILD: You don't want to do that?

DELEGATE JORDAN: We didn't diminish the judges.

DELEGATE KAMENY: No. The moment you allow that diminution, you get into horrendous problems.

CHAIRPERSON HARRIS: Okay, so the corrections to section 12 now are, "The Governor and Secretary of State shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during their term of office. Such compensation shall not be diminished during the term of office."

DELEGATE CORN: Point of order.

CHAIRPERSON HARRIS: All in favor, let it be known by saying aye.

DELEGATE CORN: Point of order, point of order.

[There is a chorus of ayes.]

DELEGATE CORN: Point of order, Madam Chair. That is an amendment that should be voted on separately than from the whole section. That word "diminished" is an amendment and should be voted on separately.

DELEGATE SIMMONS: That is correct.

DELEGATE GRAHAM: Let's move on with this. Let the Chair accept it and let's move on.

CHAIRPERSON HARRIS: If the Chair accepts it, we can vote on the changes --

DELEGATE CORN: The Chair is not the body.

CHAIRPERSON HARRIS: The Chair can accept --

DELEGATE CORN: The Chair is not the body.

VOICE: Move the word.

CHAIRPERSON HARRIS: Let's move the word "diminish."

VOICE: I certainly will.

CHAIRPERSON HARRIS: All those in favor of "diminish," "change" being replaced by "diminish," please signify by saying aye.

[In a voice vote, change received, all voting in favor except Delegate Corn.]

CHAIRPERSON HARRIS: Let's move the amendments, the amendments with the changes as I have read. All in favor, let it be known by saying aye.

[There is a chorus of ayes, with Delegate Corn simultaneously saying nay. Motion carries.]

CHAIRPERSON HARRIS: So carried.

We would like to move to section 13, Executive Residence.

SEVERAL VOICES: Question the action.

VOICE: Who cares?

DELEGATE KAMENY: Nobody cares, so let's move on.

[Laughter.]

CHAIRPERSON HARRIS: Yes, what is your point, because we have now gotten to the next one?

VOICE: Have we made any provision for the starting salary?

CHAIRPERSON HARRIS and many voices: No. No.

CHAIRPERSON HARRIS: Okay, Section 13.

DELEGATE SIMMONS: Executive Residence. This is Section 13, an executive residence, suitably furnished, shall be provided at the seat of government for the use of the

Governor. The Executive shall receive an allowance for maintenance as provided by law." I wish to speak to this.

CHAIRPERSON HARRIS: It has to get a second.

DELEGATE SIMMONS: I so move.

SEVERAL VOICES: Second.

CHAIRPERSON HARRIS: It has been properly moved and seconded. Yes, you may speak to it.

DELEGATE SIMMONS: Ladies and gentlemen, I would be the first to say we did not need this. This is not the first order of business in my own mind nor of the committee's. But we felt impressed, as a matter of fact, forced, to keep things in order and priority in this city-state of ours and that the state university has already provided for its president to have a residence which is suitably furnished and that it is inappropriate for a state to then suggest that in a new government with a Governor that we would not provide an equally as --

DELEGATE CORN: Point of order, Madam Chair.

DELEGATE SIMMONS: -- respectfully for that executive who has not just local and state obligations but -- and national obligations but has international obligations and

more than would normally be the case if we were in Wyoming -- if we were located in Wyoming.

And I think for all of those reasons that we have an obligation to acknowledge this and that it should be and that we found that it was in 37 State Constitutions and that this does not speak to when or how much but I do think that it is important.

DLEGATE CORN: [Overriding] Point of information, point of information.

CHAIRPERSON HARRIS: Thank you very much, Delegate Simmons. Delegate Talmadge Moore.

DELEGATE TALMADGE MOORE: Madam President, I move to strike the entire section 13, executive residence, and my rationale is that I think that it will be a little too expensive at this time. We are going to have to be giving the Governor \$70,000 and then there will be another \$100,000 for this, maybe. Therefore, I move to strike this entire section.

CHAIRPERSON HARRIS: Is there a second to the amendment?

[A motion is made and there are several seconds.]

CHAIRPERSON HARRIS: It has been moved and seconded that Section 13 be deleted. Delegate Graham.

DELEGATE GRAHAM: May I say this, that the entire

rationale that Delegate Simmons has said was the fact that if the President of our local university can have a residence set aside, I think that for a few people, I think that if we are going to have a Governor, he should certainly have a home, even if it does not cost very much. We should have a residence that we can point to and say, "This is the home of our Governor." "And this is how we care for him."

If we can find enough money or the people of the District can find enough money to provide for a college president, certainly I would not want anybody in our state to say, "The college president has a home and the Governor does not."

CHAIRPERSON HARRIS: Thank you, Delegate Graham.

A question to the committee, out of the 50 State Constitutions that you looked at, how many provided for a Governor's Mansion?

DELEGATE SIMMONS: Thirty-seven.

CHAIRPERSON HARRIS: Delegate Jordan [rapping gavel].

DELEGATE JORDAN: Madam President, you have asked my question. Essentially, I wanted to find out how many other states did it. I think it is important, too, to note that many cities provide the residences for their chief executives and I do not think it is unwarranted at this point. I don't think it is unwise. I mean, you know, in some respects, we

have patterned ourselves after other states and we can give the Governor a little trappings.

VOICE: We don't have to give him that much.

DELEGATE JORDAN: He has got to live some place.

CHAIRPERSON HARRIS: Delegate Coates.

DELEGATES COATES: I think, just as on a national scale, the White House is a symbol for protests --

DELEGATE JORDAN: Amen.

DELEGATE COATES: -- and public expression, we need a Governor's Mansion.

MRS. JONES: Hear, hear.

[Laughter, agreement and applause.]

DELEGATE COATES: I support Article 13.

DELEGATE KAMENY: Are you going to provide him with grounds for picketing?

DELEGATE COATES: Yes, certainly.

CHAIRPERSON HARRIS: Delegate Love.

DELEGATE LOVE: Madam Chair, the Education Committee has not provided for an Executive Residence. Whatever was done was done by the Board of Governors and it may be undone.

I think if the Legislature wants people to pay for a mansion, they can do it as our elected officials. I think the first thing people are going to look at in the Constitution

is the cost. I think this is something that can certainly be taken care of later on; if people feel that we need some place to demonstrate this is a very expensive way of getting it and I would like to second and support the motion to delete this.

It can always be done later by the Legislature, by the Legislators, if the people that we vote in feel that it is necessary.

DELEGATE COATES: No.

CHAIRPERSON HARRIS: Delegate Corn.

DELEGATE CORN: I would like to concur with Delegate Moore, Talmadge Moore. This should be deleted. To say that, as the Chair has said, 37 have provided this in their Constitution. Concomitantly, 13 have not, number one.

Number two, to say, "Well, there is a home for the President at the University of --"

CHAIRPERSON HARRIS: Wait just a minute, Delegate Corn. Now, I recognized you to speak in any way you wish to speak, but --

DELEGATE CORN: Well, I am doing that.

CHAIRPERSON HARRIS: -- if you are going to echo what has been said, we --

DELEGATE CORN: No, I am not.

CHAIRPERSON HARRIS: We need to move on and you are

echoing everything that has been said.

DELEGATE CORN: I am refuting the points that have been brought up. Thirteen states have not put this in their Constitutions. Whether or not --

[Catcalls and side comments.]

DELEGATE CORN: Whether or not the President of UD. has a house given by the University or the taxpayers of the city is irrelevant; whether or not mayors in bigger cities than ours such as New York where there are 14 million people as opposed to less than a million have homes, is also irrelevant and I would have to concur that adding this expense in the Constitution as an absolute requirement is going to turn off a lot of voters.

CHAIRPERSON HARRIS: Delegate Jones.

DELEGATE JONES: I rise in support of the amendment that is on the floor for the simple reason that the 13 other states that do not have -- that do not have, who have not provided the Governor's Mansion, have provided those stipends for that Governor that lets him live in the style as if he had a mansion so the same money is being spent.

The other problem with this is this, is that the historical argument that we put forth about money makes us not only a half-step into becoming a state, it makes us half a

state and I cannot understand why we would not allow the Governor of the State to have a mansion.

It seems to me, if we are going to be first among equals -- that is the other states -- then we ought to be first among equals and the Chief Executive should have a residence.

[Applause.]

CHAIRPERSON HARRIS: Okay, at this time I think we should go to the vote. We have 15 minutes to finish what we are doing. Delegate Mason.

DELEGATE HILDA MASON: I would like to offer a friendly amendment to the maker of the substitute and to the committee that we just change the language to say --

CHAIRPERSON HARRIS: Delegate Mason, you cannot provide --

DELEGATE HILDA MASON: It is only a friendly amendment.

CHAIRPERSON HARRIS: But his amendment is to strike the whole section.

SEVERAL VOICES: [Not transcribable -- opinions.]

CHAIRPERSON HARRIS: Please [rapping gavel] The amendment is to strike all of 13 so you cannot amend any of it because the amendment is to strike it all so you are asking to --

DELEGATE CORN: She can make a substitute motion.

DELEGATE GRAHAM: I call the question. I call the question.

CHAIRPERSON HARRIS: The question has been called by Delegate Graham --

[There is a second.]

CHAIRPERSON HARRIS: -- and seconded. The amendment before the floor is section 13, which is Delegate Talmadge Moore's amendment to delete all of section 13.

DELEGATE LOVE: Could we have a hand raising division on this vote?

CHAIRPERSON HARRIS: Yes. All in favor of deleting Section 13 --

DELEGATE JORDAN: We have to vote to cut off debate.

CHAIRPERSON HARRIS: I am sorry. All in favor of cutting off debate, signify by saying aye.

[Unanimous vote to cut off debate.]

CHAIRPERSON HARRIS: All those in favor of deleting section 13, please raise your hands.

[Results of hand-raising vote, 10 in favor, 13 opposed. Motion fails.]

CHAIRPERSON HARRIS: The motion fails. Back to section 13 --

DELEGATE CORN: I would like to make an amendment, please.

CHAIRPERSON HARRIS: Please. Delegate Hilda Mason.

DELEGATE HILDA MASON: I move to amend section 13 to strike the word "shall" and insert "may."

[The motion is made. There are several seconds.]

CHAIRPERSON HARRIS: You may speak to it.

DELEGATE HILDA MASON: [Reads corrected phrase.]

CHAIRPERSON HARRIS: It has been moved and properly seconded that "shall" be replaced with "may" in section 13. Any discussion on the motion?

DELEGATE COATES: I call the previous question.

CHAIRPERSON HARRIS: The previous question has been called. All in favor of cutting off debate.

[Vote is unanimous to cut off debate.]

CHAIRPERSON HARRIS: So carried. Section 13, Executive Residence will be read as is stated with "Shall" being replaced by "May." All in favor, please make it known by saying aye.

[After a voice vote, a hand vote is taken and the results are 12 in favor, 10 opposed. It passes.]

CHAIRPERSON HARRIS: The section 13 now reads with "may." The vote count is 12 to 10 in favor of "shall" being

replaced by "may."

DELEGATE LOVE: Move section 13.

CHAIRPERSON HARRIS: Move section 13.

DELEGATE SIMMONS: I move section 13, Executive Residence as amended, be adopted.

[Motion is made. There are several seconds.]

CHAIRPERSON HARRIS: All in favor?

[In a voice vote, carries unanimously.]

CHAIRPERSON HARRIS: So carried. Delegate Simmons.

DELEGATE SIMMONS: Section 14, Succession to the Governorship. We again will engage in consistency and where you find, in A on line 13, "The Lieutenant-Governor" strike that and leave "Secretary of State," strike "Attorney-General."

Under B, "Governor-Elect, in case of the death or disability upon determination by the Supreme Court," it becomes "Secretary of State-Elect" so it is "Governor-Elect" and "Secretary of State-Elect."

DELEGATE CORN: Barbara, did you add the words, "disability as determined by the Supreme Court"?

DELEGATE SIMMONS: No. What this says is "Removed from office, resignation or death." We did do some language amendments on disability.

DELEGATE CORN: Madam Chair, I have a minority

report on this.

DELEGATE KAMENY: Clarification precedes the minority report.

CHAIRPERSON HARRIS: Delegate Simmons, for clarification, please. In subsection B, Governor-Elect, you are deleting Lieutenant-Governor-Elect?

DELEGATE SIMMONS: Yes.

CHAIRPERSON HARRIS: Attorney-General-Elect.

DELEGATE SIMMONS: Right.

CHAIRPERSON HARRIS: And what else?

DELEGATE SIMMONS: That is all.

CHAIRPERSON HARRIS: Okay, let me have a motion to adopt.

DELEGATE CORN: I have my minority report here.

CHAIRPERSON HARRIS: Delegate Simmons, is there a motion to adopt?

DELEGATE CORN: Point of order. Point of order, Madam Chair.

DELEGATE SIMMONS: Yes, I move to adopt --

DELEGATE CORN: Point of order, Madam Chair.

CHAIRPERSON HARRIS: Is there a second?

[The motion is made. There are several seconds.]

CHAIRPERSON HARRIS: It has been moved and seconded

that we accept section 14 with its deletions. Now, the minority reports --

DELEGATE CORN: The minority report --

DELEGATE KAMENY: I have a question which precedes minority report.

CHAIRPERSON HARRIS: Delegates Kameny and Coates.

DELEGATE KAMENY: On line 12, Madam Chair, you refer to the conviction of the Governor.

DELEGATE SIMMONS: Yes.

DELEGATE KAMENY: Conviction for what? A parking ticket infraction? Wife-beating? What is it that you mean? Don't you really mean incarceration?

SEVERAL VOICES: No, no.

DELEGATE SIMMONS: No, I meant a felony, conviction of a felony.

DELEGATE CORN: Can we say that in here?

DELEGATE SCHRAG: Do you mean conviction or impeachment?

CHAIRPERSON HARRIS: General Counsel.

MR. THOMAS: I asked the same question in my report.

DELEGATE CORN: Yes, you did.

CHAIRPERSON HARRIS: Did you have a response on it?

MR. THOMAS: The Delegates can provide what they

want to mean by "conviction."

CHAIRPERSON HARRIS: Delegate Coates, you are next.

DELEGATE CORN: My minority report --

CHAIRPERSON HARRIS: Was your question the same?

DELEGATE COATES: Yes, my question was regarding conviction.

CHAIRPERSON HARRIS: Shall we go back to that?

DELEGATE COATES: I want further to propose that we amend this to insert "conviction of a felony."

CHAIRPERSON HARRIS: Delegate Corn, I don't think I recognized you to come up front.

DELEGATE CORN: I have a minority report.

CHAIRPERSON HARRIS: Yes, but that does not mean you need to come up front.

On the minority report, page 2 of 6, there is page 7, section 14, line 8 through 10. Please read it. We will not read it out loud.

DELEGATE CORN: Ma'am, there are only five or six words. I don't --

CHAIRPERSON HARRIS: I don't care, Delegate Corn.

VOICE: Oh, for God's sake, let her read it.

DELEGATE GRAHAM: It is now 10 of 11:00.

CHAIRPERSON HARRIS: Yes. Will you please read it and --

DELEGATE CORN: I would like to move that as a motion and I have that right.

CHAIRPERSON HARRIS: Well, then, move it.

DELEGATE CORN: I would like to move that in line 13 on page 7, section 14, line 13, after the word "resignation," the following language be inserted, "Disability as determined by the Supreme --"

CHAIRPERSON HARRIS: You don't have to read it.

DELEGATE CORN: " -- Court."

CHAIRPERSON HARRIS: Is there a second?

[A motion is made and there is one second.]

CHAIRPERSON HARRIS: It has been moved and seconded that we accept the wording here on page 2 of 6. You can read it for yourself, lines --

DELEGATE CORN: "Disability as determined by the Supreme Court."

CHAIRPERSON HARRIS: -- 8 through 10. Delegate Corn -- we --

DELEGATE CORN: I have a right to make my full motion without interruption.

CHAIRPERSON HARRIS: -- don't need you to read it. It has been seconded. Discussion on the motion.

DELEGATE CORN: I would like to defend my motion.

CHAIRPERSON HARRIS: Discussion on the motion.
Delegate Jordan.

DELEGATE JORDAN: Madam Chair -- Madam President,
I call for the previous motion and in doing so, that means
that those who speak for and against only have two minutes.

[Call made for previous question and seconded.]

CHAIRPERSON HARRIS: Okay, Delegate Jordan has
called for the previous question. Those speaking for or
against have only two minutes. Please time it, Mr. Secretary.

DELEGATE CORN: I would like to speak for my
motion. In order to conform this section with other sections,
in other sections you talk about removal for resignation,
death or disability as determined by the Supreme Court when
you talk about the justices and the judges being removed.

For instance, if the Governor were in a terrible
car accident that left him a vegetable where his mind was
destroyed as well as his body, you have to be able to have
that determined --

[Chairperson rapping for order.]

-- by a Supreme Court so I urge you to vote for
this.

CHAIRPERSON HARRIS: Is there any other person who
would like to speak either for or against the motion?

DELEGATE COATES: I support the amendment, Madam Chair.

CHAIRPERSON HARRIS: Delegate Rothschild.

DELEGATE ROTHSCCHILD: I agree. I think we need that in there.

DELEGATE BRIAN MOORE: Point of inquiry.

CHAIRPERSON HARRIS: Yes.

DELEGATE BRIAN MOORE: Could the committee respond to the Corn Amendment? Are they in favor of it or against it?

DELEGATE STREET: [Overridden by conversation.]

CHAIRPERSON HARRIS: Is there any other discussion on the motion?

DELEGATE ROTHSCCHILD: Did she say she was for or against it? I couldn't hear.

CHAIRPERSON HARRIS: Delegate Barnes.

DELEGATE BARNES: I move the previous question.

CHAIRPERSON HARRIS: The previous question has been called. All in --

DELEGATE CORN: The previous question --

CHAIRPERSON HARRIS: -- favor of cutting off debate, so signify by saying aye.

[Unanimous voice vote to cut off debate.]

CHAIRPERSON HARRIS: Before us is Delegate Corn's

minority report. All in favor, let it be known by saying aye.

[In a voice vote, motion carries.]

CHAIRPERSON HARRIS: Okay, carried. Okay, Delegate Simmons.

DELEGATE SIMMONS: I would like now to include -- I need the words, I guess -- because what we have in B is "Governor-Elect in case of the death or disability -- yes?

DELEGATE COATES: Have we completed action with respect to section A?

DELEGATE SIMMONS: I hope not.

DELEGATE COATES: Because I propose, Madam Chair, that we add the definition for felony. Was that in there?

DELEGATE SIMMONS: As a matter of fact, Madam President, in response to the query of Delegate Coates, consultation with our General Counsel suggests that we may want to include the word "of a felony and/or impeachment."

We thought if we said felony that implicit in that would mean -- no, we thought if we only said "conviction of impeachment" that implicit in that would mean, impeachment would be defining that any governor convicted of a felony must be impeached.

We did not write that caveat, being indirect, so what was suggested is this kind of amendment of the language:

"A) Governor. In case of conviction of a felony or impeachment of a Governor, removal from office, resignation or death, the Secretary of State and such other persons designated by law shall in that order be Governor for the remainder of the Governor's term."

It would be necessary, Delegate Coates, that we define both felony and impeachment and I am not sure that it may be in some other part of the document. We certainly did not define it so I am really raising a query with whether it is in the Judiciary or the Legislature or it's --

DELEGATE SCHRAG: It is in the Legislative Articles.

DELEGATE SIMMONS: It is in the Legislature, okay.

CHAIRPERSON HARRIS: Delegate Coates, then Kameny.

DELEGATE COATES: I just wanted to move the amendment to insert "conviction of felony" --

VOICE: Second.

DELEGATE SIMMONS: "Or impeachment."

DELEGATE COATES: "Or impeachment."

DELEGATE SIMMONS: Second.

[Motion made and seconded.]

CHAIRPERSON HARRIS: Okay, before you speak, Section 14 now reads, "In case of conviction of a felony or impeachment of a governor, removal from office, resignation,

disability as determined by the Supreme Court or --"

DELEGATE CORN: What does "removal from office" mean?

CHAIRPERSON HARRIS: --" the Secretary of State or other persons designated by law shall in that order be Governor for the remainder of the Governor's term."

DELEGATE COATES: Further clarification. As I understand it, impeachment only requires a trial.

SEVERAL VOICES: [answer simultaneously]

DELEGATE COATES: So that unless that trial determines that it is call to remove from office, the simple matter of impeachment should not constitute a basis for succession to the Governorship.

DELEGATE JONES: Gloria, what do you want done with this?

[NOTE: Many loud side conversations going on simultaneously, louder than recognized speakers.]

CHAIRPERSON HARRIS: Delegate Simmons, do you want to respond to this?

DELEGATE SIMMONS: Yes, I think what might save us time with these definitions --

SEVERAL VOICES; [Call for silence and/or order.]

CHAIRPERSON HARRIS: [Rapping gavel]

DELEGATE COATES: Madam Chair, Madam Chair, it seems to me that if impeachment proceedings should result in removal, that is covered by the word "removal" so that if the Chair grants leave, I would like to change the amendment --

DELEGATE SIMMONS: Okay.

DELEGATE COATES: -- in order to provide for the insertion of "conviction of a felony."

DELEGATE SIMMONS: Okay.

CHAIRPERSON HARRIS: Well-said. Delegate Kameny.

DELEGATE KAMENY: I have a question. I am not sure it is in order at this point. If it is not in order, let me ask it when it is. And that is, I am concerned that there is an omission in that no criteria are provided at any point for the offense for which impeachment and removal from office can occur.

DELEGATE SIMMONS: Yes, they exist in the Legislative Section. That is what I understand.

DELEGATE KAMENY: The Legislative Section defines the offenses for the Governor?

DELEGATE SIMMONS: Yes.

VOICE: It is right there.

DELEGATE KAMENY: It is right there? All right, I have not read that section. All right, then I have nothing more.

CHAIRPERSON HARRIS: All right, can we move right along, please?

DELEGATE CHARLES MOORE: Mrs. Simmons, so far as I know, I am right about removal. So far as I know, there are only two kinds of removal possible. One is the impeachment route. The other is recall, where the voters recall the person.

Now, the further question is, if the Governor is convicted, is the intention that this be automatic? In other words, the Legislature does not have to go through an impeachment trial to remove him after he has been convicted of felony. Is that correct? The conviction of a felony in and of itself removes him.

DELEGATE SIMMONS: Delegate Mason, I think, has further simplified our language and yet captured our intent because what he has really said is that in case of removal from office, resignation or death, the Secretary of State succeeds because removal occurs as a result, A, of impeachment, or B, of recall and since those are the prevailing conditions, we do not need to spell those out and we do not have to deal with conviction at all.

If the removal of the Governor occurs, it will be as the result of those two elements.

Am I correct?

CHAIRPERSON HARRIS: Thank you, Delegate Simmons.
We need to move right along here. We have got six minutes --

DELEGATE SIMMONS: I am trying to clarify the
language.

CHAIRPERSON HARRIS: Okay, let's move --

DELEGATE CORN: Quorum Call. Quorum count.

SEVERAL VOICES: There is a quorum.

CHAIRPERSON HARRIS: Is there a motion to cut off
debate?

DELEGATE CORN: There is not a quorum in here.

There is not a quorum. There are 22 Delegates on
the floor. If they are out in the hall, that does not count.
There is not a quorum.

CHAIRPERSON HARRIS: Please, Delegates.

Delegate Schrag.

DELEGATE SCHRAG: To make it clear forever, I move
that we have section A read, "In case of removal from office
of the Governor," blah blah, blah. We have not voted on that
so I suggest we do that forthwith.

DELEGATE LOVE: We can give that to Style and
Drafting.

DELEGATE CORN: Point of order, point of order.

DELEGATE SIMMONS: In case of removal from office,

with those two prevailing conditions, resignation or death, as Delegate Mason pointed out.

DELEGATE CORN: Point of order, Madam Chair.

CHAIRPERSON HARRIS: So what is your amendment, Delegate Schrag?

DELEGATE SCHRAG: "In case of removal from office of the Governor."

[Delegate Corn frets about lack of quorum. There is a quorum.]

Several Persons: Second the Schrag Amendment.

DELEGATE GRAHAM: Madam Chair, I call the previous question.

[There are several seconds.]

CHAIRPERSON HARRIS: The previous question has been called. All in favor, signify by saying aye.

[Unanimous voice vote in favor.]

CHAIRPERSON HARRIS: We move to the Schrag Amendment and -- I'm sorry, the Schrag substitute -- no, the Mason, Charles Mason's substitute, which says, "In case of removal from office of the Governor --" What comes next? "Resignation, disability as determined by the Supreme Court or death, the Secretary of State and such other persons as designated by law shall in that order be Governor for the remainder of the

Governor's term."

DELEGATE SIMMONS: Right. That is Section A as amended and I move, Madam President, that it be approved as amended.

[Motion made, there is a second.]

CHAIRPERSON HARRIS: All in favor, signify by saying aye.

[Unanimous voice vote in favor of the amended Section]

CHAIRPERSON HARRIS: So carried. We move to section B and --

DELEGATE SIMMONS: And subsection B simply speaks to the Governor elected in case of the death or disability upon determination by the Supreme Court of the Secretary of State-Elect and such other persons designated by law shall in that order become Governor at the commencement of the Governor-Elect's term.

CHAIRPERSON HARRIS: Discussion? Delegate Bruning. I'm sorry. Is there a second to that?

[Motion made. There are several seconds.]

CHAIRPERSON HARRIS: It has been moved and seconded that we accept subsection B of Section 14. Delegate Bruning?

DELEGATE BRUNING: I move the previous question.

CHAIRPERSON HARRIS: Okay, the previous question

has been moved.

VOICE: That is too much ambiguity.

DELEGATE KAMENY: There is no ambiguity. Style and Drafting can handle it.

CHAIRPERSON HARRIS: Okay, it has been moved -- is there a second?

[Moved and seconded.]

CHAIRPERSON HARRIS: It has been moved and seconded that we accept subsection B of section 14. All in favor, let it be known by saying aye.

[Motion carried unanimously in voice vote.]

CHAIRPERSON HARRIS: So moved. We are on section 15, Great Seal. Wait a minute, Brian Moore?

DELEGATE BRIAN MOORE: Point of special privilege, Madam President.

CHAIRPERSON HARRIS: Are you suggesting something related to Section 14?

DELEGATE BRIAN MOORE: No, I am not.

CHAIRPERSON HARRIS: Are you suggesting something related to Section 15?

DELEGATE BRIAN MOORE: No. No. I would like to ask that I be recognized in order to present an amendment prior to the vote on the total article.

CHAIRPERSON HARRIS: Okay. Section 15, Delegate Simmons.

DELEGATE SIMMONS: All right, 14, I move the adoption, Madam President, of Section 14 as amended, succession to the Governorship.

[Motion made and seconded.]

CHAIRPERSON HARRIS: All in favor.

[Carried unanimously by voice vote.]

CHAIRPERSON HARRIS: So carried. Now, Section 15.

DELEGATE SIMMONS: Section 15, the Great Seal.

"There shall be a Seal of the State which shall be called 'The Great Seal of the State of _____', which shall be kept by the Secretary of State --"

SEVERAL VOICES: No, the Governor.

DELEGATE SIMMONS: Leave it to Governor?

SEVERAL VOICES: [Inaudible.]

DELEGATE SIMMONS: Yes, the custodian of those things is the Secretary of State if it is not the Lieutenant-Governor.

CHAIRPERSON HARRIS: Okay, so we are deleting Lieutenant-Governor and in its place put the Secretary of State?

SEVERAL VOICES: Yes.

CHAIRPERSON HARRIS: In both places?

DELEGATE SIMMONS: Yes and used officially by the Secretary of State as directed by law. I so move.

DELEGATE GRAHAM: Second.

CHAIRPERSON HARRIS: It has been properly moved and seconded that we accept Section 15 as amended.

DELEGATE CORN: I have a minority report, Madam Chair.

CHAIRPERSON HARRIS: Yes. The minority report. As you see --

DELEGATE CORN: Substitute the words --

CHAIRPERSON HARRIS: I can read it. On page 2 of 6, lines 12 through 14 --

DELEGATE CORN: Substitute the word "Governor" for "Secretary of State" in line 22 and in line 23.

CHAIRPERSON HARRIS: Is there a second for that amendment?

[Motion made. There is a second.]

VOICE: Why, the Governor does not keep the Seal?

CHAIRPERSON HARRIS: It has been moved and seconded that we substitute "Governor" for "Secretary of State." Any discussion on the motion? Delegate Charles Mason.

DELEGATE CHARLES MASON: In no case that I know of

is the Chief Executive the custodian of the Seal. It is always somebody of a lower level. I think in the United States it is the Secretary of State. In most of the states, it is the Secretary of State. In Massachusetts it is the Secretary of the Commonwealth, as they call him. I know of no state where the Governor keeps it.

DELEGATE CORN: Point of order --

DELEGATE JONES: Call for the question.

DELEGATE KAMENY: I withdraw my second.

CHAIRPERSON HARRIS: The second has been withdrawn.

DELEGATE CORN: But you can't do that. You can't do that under the Rules.

[Laughter.]

DELEGATE KAMENY: I just did.

DELEGATE CORN: Point of information.

CHAIRPERSON HARRIS: Yes, Delegate Corn.

DELEGATE CORN: I would like Counsel to speak to this. I call for the Counsel.

CHAIRPERSON HARRIS: Counsel does not need to speak to that. It is not a point for the Counsel, please. Is there any other discussion on that amendment?

DELEGATE JONES: The question has been called and seconded.

CHAIRPERSON HARRIS: The question has been called and seconded. All in favor of cutting off debate.

[In a voice vote, carries with all voting aye except Delegate Corn.]

CHAIRPERSON HARRIS: Carried. All right, the minority report on Section 15, lines 12 through 14, all in favor.

[Loses with all but Delegate Corn voting nay.]

CHAIRPERSON HARRIS: It failed. Delegate Simmons.

DELEGATE SIMMONS: I move the adoption of Section 15, the section Great Seal, as amended.

[Motion made and seconded.]

CHAIRPERSON HARRIS: All in favor?

[In a voice vote, carries with all but Delegate Corn voting aye.]

CHAIRPERSON HARRIS: So carried. Delegate Schrag.

DELEGATE SCHRAG: I move an additional Section 16 which I have previously shared with the committee which would read, "As the principal legal officer of the state, the Attorney General shall have responsibility for advising the Governor on legal questions, prosecuting offenders and representing the state with respect to all legal matters."

[Motion made and seconded.]

CHAIRPERSON HARRIS: It has been moved and seconded that a new Section 16 as just read by Delegate Schrag be -- Delegate Barnes.

DELEGATE BARNES: I suggest that is out of order because it is a reconsideration of a prior action.

CHAIRPERSON HARRIS: If you recall last night, Delegate Barnes, the body did -- Delegate Jones.

DELEGATE JONES: I am having a problem because I do believe this is reconsideration and over the length of this Convention, we have had the same kinds of things happen to us time and time again. The body will decide something and the disrespecting of the vote is for somebody to come back with an article to bring that thing right back into play.

I am having a problem here. If you got rid of the Attorney-General at that point, why is Delegate Schrag bringing him back in the back door? I think the first place that you lose a vote on the floor and you don't respect the vote of this body -- I don't care what it was -- then why are you here?

CHAIRPERSON HARRIS: The point is well-taken, that the Executive Branch Article does not provide for an Attorney-General, so therefore, we have struck that term each time we have seen it in this report. Attorney-General has been deleted.

DELEGATE SHELTON: Madam Chair, there was a mention

that there will be an Attorney-General in other departments. Now, I don't see that there has been a specific effort here to give the Attorney-General a part in the Constitution over and above what the Attorney-General is. The Attorney-General is a specified part of every other state and I rise in opposition to the matter because I think it puts the Attorney-General in a special category and makes an exception of him.

CHAIRPERSON HARRIS: Is there any other discussion on the motion? Delegate Kameny.

DELEGATE KAMENY: I think the Attorney-General, as the top legal officer of the state, ought to be put in a special category as a constitutional officer. He was deleted earlier-on because the argument was made, and I think properly, that he was being put in there, into the Constitution, with no prescribed duties at all and therefore, he had nothing legal to do.

This brings it back in direct address to the reasons for which it was removed earlier, namely, it provides exactly what was missing before and therefore, I think we certainly should vote in favor of this amendment, this addition, for just those reasons.

The Attorney-General, as a constitutional officer is, in my view, an important officer to have.

CHAIRPERSON HARRIS: Okay. Fellow Delegates, there is no way I can call on each of you because the guard has come up and said that we must vacate this building so I am going to call for the vote, if there is a motion to move the previous question.

DELEGATE CORN: Point of order --

DELEGATE JONES: I move to table.

DELEGATE CORN: Point of order, Madam Chair, you had said that you would recognize Brian Moore before calling for the vote on the entire article.

CHAIRPERSON HARRIS: I did not call on you, Delegate Corn.

DELEGATE CORN: I think that you should keep your promise.

SEVERAL VOICES: You are out of order.

CHAIRPERSON HARRIS: Delegate Simmons.

DELEGATE SIMMONS: Point of personal privilege. I think, friends, that it is absolutely reprehensible that here we are, in need of a single motion and an understood necessity, you don't create a constitutional position and not have included there those functions.

Now, we tried to influence you. We did not. But now we must conform with what is logical. We have got to have

some duties. I have read these duties -- I read these duties in terms of legal, prosecutorial and advisory the other night.

This language says what I said the other night. It simply has to be in the Constitution or we have got to go back and take out the Attorney-General. You do not create a position and not put a definition of those duties --

DELEGATE CORN: We have taken it out.

DELEGATE KAMENY: You support the amendment --

DELEGATE SIMMONS: Yes.

CHAIRPERSON HARRIS: Delegate Bruning.

Delegate Bruning has been recognized.

DELEGATE BRUNING: I move the previous question.

[The previous question is moved and seconded.]

CHAIRPERSON HARRIS: The previous question has been moved and seconded. All in favor of cutting off debate.

[Motion carries in voice vote.]

CHAIRPERSON HARRIS: Okay, back to the Schrag Amendment, a new Section 16, the duties of the Attorney-General. All in favor, let me know by raising your hands. All in favor of the Schrag Amendment, raise your hands.

[In a raising of hands, 17 are in favor, motion is carried.]

CHAIRPERSON HARRIS: So carried, the new section 16

will be as read. Delegate Brian Moore asked to be recognized.

DELEGATE BRIAN MOORE: I have for section 17 or whatever section the Style and Drafting would like to make.

But we have not defined the functions of the Secretary of State so therefore I move that the Secretary of elections State shall administer all sections, be responsible for compilation and publication of all vital statistics, be custodian of all state documents and records and perform such other duties as designated by the Governor.

CHAIRPERSON HARRIS: Is there a second?

[Motion made and seconded.]

CHAIRPERSON HARRIS: It is moved and seconded that the duties of the Secretary of State be as read. We do not have a copy. Discussion? Delegate Maguire.

DELEGATE MAGUIRE: I think that this is out of order. The Secretary of State became the Lieutenant Governor. We have dealt with the duties of that. It is out of order. People refused to let me try and deal with that earlier tonight. We can't go back and amend a section that has already been accepted. You are out of order. Try at second reading.

CHAIRPERSON HARRIS: Delegate Barnes.

DELEGATE COATES: Madam Chair, I move --

CHAIRPERSON HARRIS: I recognized Delegate Barnes.

DELEGATE COATES: I move the adoption of the
Committee's Articles --

DELEGATE SIMMONS: I am the Chair and I would like --

SEVERAL VOICES: Let the Chair have that privilege.

CHAIRPERSON HARRIS: Delegate Simmons, will you
please move the Committee's Report before the body?

DELEGATE SIMMONS: Yes.

DELEGATE BRIAN MOORE: My motion is on the floor,
Madam President.

CHAIRPERSON HARRIS: It is. I am sorry.

There is a motion on the floor. Delegate Barnes.

DELEGATE BARNES: I move the previous question.

[Moved and seconded.]

CHAIRPERSON HARRIS: Delegate Barnes moved the
previous question. All in favor of cutting off debate.

[In a voice vote, carried.]

CHAIRPERSON HARRIS: So carried. All in favor of
Brian Moore's Amendment, please raise your hands.

DELEGATE CORN: Point of order, Madam Chair, you
are not following the rules.

CHAIRPERSON HARRIS: All in favor of Brian Moore's
Amendment, please raise your hands.

DELEGATE CORN: That is not fair. That is not

abiding by the rules. We do not have a quorum.

SEVERAL VOICES: You are out of order. You are out of order. Sit down.

CHAIRPERSON HARRIS: [Rapping for order] All in favor of Brian Moore's Amendment --

There are three for it.

All opposed, 13.

[Delegate Corn continues to protest and other Delegates oppose her.]

CHAIRPERSON HARRIS: There are 13 opposed.

Abstention. Abstention. Abstention

[The amendment fails, with hand vote.]

CHAIRPERSON HARRIS: The amendment fails.

DELEGATE COATES: Move adoption, Simmons.

CHAIRPERSON HARRIS: Move the adoption, will you please, Delegate Simmons of the Executive Branch Committee's report?

DELEGATE SIMMONS: Madam President, I would like to move the adoption of all 16 sections of the Article on the Executive Branch Powers and at the same time thank those Delegates who have remained here and worked this for the will of the body.

DELEGATE COATES: Second. Let's vote for it.

CHAIRPERSON HARRIS: It has been seconded. All in favor, signify by saying aye.

[Unanimous vote in favor, except Delegate Corn.]

CHAIRPERSON HARRIS: Thank you very much.

DELEGATE COATES: I move that we adjourn.

[Motion made and seconded.]

CHAIRPERSON HARRIS: I declare this session adjourned.

[Whereupon, at 11:23 o'clock p.m., the session recessed until the following day.]